



DIVERSION COMMITTEE

MEMBERS OF THE COMMITTEE

Janet Salomonson, M.D., Co-Chair
Ronald Wender, M.D., Co-Chair
Cesar Aristeiguieta, M.D.
Stephen Corday, M.D.
Shelton Duruisseau, Ph.D.

November 1, 2007

Hilton San Diego Mission Valley
Carmel 3
901 Camino Del Rio South
San Diego, CA 92108

*Action may be taken on any item
listed on the agenda.*

AGENDA

12:30 p.m. – 2:30 p.m.
(or until the conclusion of business)

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE
If a quorum of the Board is present, members of the Board who are not members
of the Committee may attend only as observers.

1. Call to Order
2. Approval of the July 26, 2007 Minutes
3. Quarterly Quality Review Report
4. Diversion Program Update
 - A. Financial Status Report SB 231 (Business & Professions Code 2343 (b))
5. Collection System Manager's Report
6. Diversion Advisory Council Update – David Pating, M.D.
7. Discussion and Approval of Transition Plan for the Diversion Program
8. Discussion of Diversion Summit
9. Agenda Items for February 2008
10. Public Comment on Items Not on the Agenda
11. Adjournment

The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act.

*Meetings of the Medical Board of California are open to the public except when specifically noticed otherwise in accordance with the Open Meetings Act. The audience will be given appropriate opportunities to comment on any issue presented in open session before the Board, but the Chair may apportion available time among those who wish to speak.
For additional information, call (916) 263-2600.*

NOTICE: The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting shall make a request to the Board no later than five working days before the meeting by contacting Teresa Schaeffer at (916) 263-2389 or sending a written request to Ms. Schaeffer at the Medical Board of California, 1426 Howe Avenue, Suite 54, Sacramento, CA 95825. Requests for further information should be directed to the same address and telephone number

State of California

Department of Consumer Affairs
Medical Board of California**MEMORANDUM****To:** Medical Board of California
Diversion Committee**Date:** October 5, 2007**From:** Frank L. Valine 
Diversion Program Administrator**Subject:** Quality Review Report – 1st Quarter of FY 2007/2008

Attached are the quarterly reports of Quality Review issues requested by the Diversion Committee. They include a review of Intakes, Relapses and Releases during the period of July 1, 2007 through September 30, 2007.

INTAKES

A total of **14** physicians contacted the Program during the 1st Quarter. The following charts reflect the outcomes of contact with these physicians as of September 30, 2007, as well as, other categories of information.

Status at Intake	1 st Qtr	2 nd Qtr	3rd Qtr	4th Qtr	Totals
Active: Approved by DEC & Signed Agreement	0				0
Accepted; Waiting for Signature:	1				1
Intake Complete; Awaiting DEC:	5				5
Contacted Program/Telephone Intake:	6				6
Ineligible:	0				0
Not interested in Program:	2				2
Terminated	0				0
Out-of-State:	0				0
Total Contacts	14				14

Other Information	1 st Qtr	2 nd Qtr	3rd Qtr	4th Qtr	Totals
<u>In Treatment</u> ; At intake:	4				4
Currently:	7				7
<u>Referral Type</u> ; Board Action:	6				6
Self-Referral:	8				8
<u>Impairment</u> ¹ ; Chemical:	9				9
Dual Disorder:	5				5
Mental Only:	0				0
<u>Practicing</u> ; Yes:	3				3
No:	11				11

¹ The determination of a participant's status as Chemically Dependent, Dual Disorder, or Mentally Ill frequently changes as additional information is gathered. Initially, the Program receives self-reported information during the intake process. Additional information, resulting in a change of status, may be received during either the evaluative or formal participation periods from evaluation reports and treatment records.

Table #1: Program Response Times for Intakes, 1st Quarter FY 2007/2008, July – September 2007

Table #1 shows the average response times for intakes (excluding physicians in treatment and those delayed in entry into the Program) during this period, as well as the Program's target timeframes, from the date the physician initially contacted the Program to the completion of the major steps of the evaluation process. These steps include the first face-to-face contact with Program staff; the intake interview; the initial urine test; and attendance at the first DEC meeting. A total of 14 intakes, of which, 2 were not interested.

	Process	Total	Average # of Days	Program Target	Time Periods	Number	Percentage
A	<u>From initial contact to Intake Interview</u> (5 of the 14 intakes did not have an intake interview during this reporting period; 1 was not interested in the program; 4 were entered into treatment. 1 not interested in program had an intake interview.)	9	8	ASAP	0-7 DAYS 7-14 DAYS 14-21 DAYS 21+ DAYS	7 1 0 1	78 % 11 % 0% 11%
B	<u>From initial contact to 1st urine test</u> (6 of the 14 intakes did not have an initial UA during this reporting period; 2 were not interested in the program; 4 were entered into treatment. *21+ days was for a participant who tested on a break from treatment.)	8	9	ASAP	0-7 DAYS 7-14 DAYS 14-21 DAYS 21+ DAYS	4 2 1 1	50 % 25 % 12.5% 12.5 %
C	<u>From initial contact to attendance at 1st DEC Meeting</u> (No Enforcement Activity)	1	60	90	0-60 DAYS 60-90 DAYS 90+ DAYS	1 - -	100% - -
D	<u>From initial contact to attendance at 1st DEC Meeting</u> (With Enforcement Activity)	0	n/a	n/a	0-60 DAYS 60-90 DAYS 90+ DAYS		

The data in A & B total intakes often does not meet program target dates because in many instances the process is delayed when the participant is in treatment and unavailable for an intake or to begin urine tests.

The number of total intakes shown in C & D does not match the actual number of intakes during the reporting quarter because it takes 60-90 days to schedule the DEC meetings and this report does not include updates from the previous quarter.

INTAKES – Program Response Times

Physician Diversion Program – Table 2 - Intake Case (14)

1st Qtr FY 2007/2008 July - Sept 2007

CASE	Status as of Sept 30, 2007	Enforcement Action	Contacted Program/ Telephone Intake	Intake Interview	1st UDS	DEC Meeting (Scheduled)	COMMENTS
2463	In Treatment.	None	7/12/07	n/a	n/a	n/a	In treatment at Springbrook starting 7/17/07.
2464	In-Take Completed/Awaiting DEC.	None	7/17/07	7/19/07	7/20/07	n/a	Completed Residency on 8/13/07. Working Full-Time.
2465	Not Interested In Program	None	7/18/07	n/a	n/a	n/a	Not interested in the Program.
2466	In-Take Completed/Awaiting DEC, 10/12/07.	Probationary License	7/20/07	7/25/07	7/30/07	10/12/07	Out of Practice. Arrested for DUI, Wet/Reckless.
2467	Accepted on 9/19/07; Awaiting Signature.	None	7/23/07	7/20/07	8/1/07	9/19/07	Per Agreement, cannot practice medicine until all pertinent reports are submitted; Diversion Agreement signed and Worksite Monitor(s) are in place; then may practice full-time.
2468	In-Take Completed/Awaiting DEC, 10/24/07.	None	7/25/07	8/6/07	8/9/07	10/24/07	Working Full-time. Completed treatment at Las Encinas on 8/3/07.
2469	In Treatment.	SOU	7/27/07	8/2/07	n/a	n/a	In treatment at Springbrook starting on 8/31/07.
2470	In Treatment.	None	8/8/07	n/a	n/a	n/a	In treatment at BFC starting 8/10/07.
2471	In Treatment.	Investigation Pending	8/14/07	8/16/07	8/17/07	n/a	In treatment at Palmetto starting 8/24/07.
2472	In-Take Completed/Awaiting DEC.	Investigation Pending	8/20/07	8/27/07	8/23/07	n/a	Completed 30 days of Treatment at Genesis on 8/20/07; Self Referral; Out of Practice; Positive UA for Morphine on 9/15/07.
2473	In Treatment. In-Take Completed/Awaiting DEC, 10/25/07.	None	8/21/07	9/24/07	9/25/07	10/25/07	Self Referral; Out of Practice. 8/14/07: Entered in treatment at Springbrook, est. discharge is 10/7/07.

CASE	Status as of Sept 30, 2007	Enforcement Action	Contacted Program/ Telephone Intake	Intake Interview	1st UDS	DEC Meeting (Scheduled)	COMMENTS
2474	Not Interested In Program	Investigation Pending	8/27/07	8/28/07	None	n/a	805 Report, suspended from work. As of 9/13/07, not interested in program.
2475	In Treatment.	Investigation Pending	9/7/07	None	None	n/a	Admitted into Springbrook on 9/7/07.
2476	In Treatment.	None	9/20/07	None	9/22/07	n/a	Admitted into Springbrook on 9/28/07. Had Positive UA for Alcohol on 9/22/07.

EVALUATION PERIOD: The period between the Participant signing the Interim Agreement and his or her appearance before the DEC is an evaluation period. During this initial assessment period, information from a variety of sources is gathered and reviewed as follows:

- Case Manager's Intake Interview
- Participation at Diversion Group meeting
- Evaluation by an addictionologist and/or a psychiatrist
- Treatment program records
- Lab testing results
- Worksite Monitor reports

RELEASES

The table below shows the case details for the **13 participants (for the time period of July 2007 – September 2007, the 1st quarter)** who were released from the program; 10 successfully and 3 unsuccessfully.

		1st Qtr	2 nd Qtr
Type of Referral:	Board Action: Self-Referral:	7 6	
Participant Impairment:	Chemical Dependency: Dual Disorder: Mental Only:	7 6 0	
Successful/Unsuccessful:	Successful: Unsuccessful	10 3	
Release Time for Successful Participants in Program:	5-6 years in program: 6+ years in program:	10 0	
Treatment prior to program:		7	
Treatment while in program:		6	
Relapses while in program:		1	

		3 rd Qtr	4th Qtr
Type of Referral:	Board Action: Self-Referral:		
Participant Impairment:	Chemical Dependency: Dual Disorder: Mental Only:		
Successful/Unsuccessful:	Successful: Unsuccessful		
Successful Release Time in Program:	5-6 years in program: 6+ years in program:		
Treatment prior to program:			
Treatment while in program:			
Relapses while in program:			

Totals Qtrs 1-4

Type of Referral:	Board Action: Self-Referral:	7 6
Participant Impairment:	Chemical Dependency: Dual Disorder: Mental Only:	7 6 0
Successful/Unsuccessful:	Successful: Unsuccessful	10 3
Release Time for Successful Participants in Program:	5-6 years in program: 6+ years in program:	10 0
Treatment prior to program:		7
Treatment while in program:		6
Relapses while in program:		1

Physician Diversion Program –
Releases (13 participants for the time period of July 2007 – September 2007, 1st Quarter, FY07/08)

Case	Release Status	Type of Referral	Enforcement Activity	Drug (s) of Abuse	Mental Health Disorder	Time in Program at Release	Treatment prior to Diversion	Relapses(s)	Treatment during Diversion	Practice Status at Release
2032	Completed	Self	None	Alcohol	No	5 Yr, 5 mo.	No	No	No	Practicing
2067	Completed	Bd	SOU	Mushrooms	No	5 Yr	No	No	Yes	Practicing
2071	Completed	Bd	SOU	Alcohol, Opiates	No	5 Yr	Yes	No	No	Practicing
2035	Completed	Self	None	Alcohol, Fentanyl, Opiates	Yes	5 Yr, 4 mo.	Yes	No	Yes	Practicing
2057	Completed	Self	None	Ativan, Vicodin	Yes	5 Yr, 1 mo.	Yes	No	No	Practicing
2077	Completed	Bd	SOU	Meth.	No	5 Yr	Yes	No	No	Practicing
2016	Completed	Bd	SOU	Alcohol	Yes	5 Yr, 5 mo.	Yes	No	No	Practicing
1995	Completed	Self	None	Alcohol	Yes	5 Yr, 5 mo.	Yes	No	Yes	Practicing
2015	Completed	Bd	Probation	Alcohol, Barb.	No	5 Yr, 5 mo.	No	No	No	Practicing
2060	Completed	Bd	SOU	Alcohol, Marijuana, Cocaine	Yes	5 Yr, 2 mo.	Yes	No	Yes	Practicing
2298	Terminated	Self	None	Fentanyl, Opiates	No	1 Yr, 1 mo.	No	No	Yes	Practicing Part-Time

RELEASES

Physician Diversion Program –
Releases (13 participants for the time period of July 2007 – September 2007, 1st Quarter, FY07/08)

Case	Release Status	Type of Referral	Enforcement Activity	Drug (s) of Abuse	Mental Health Disorder	Time in Program at Release	Treatment prior to Diversion	Relapses(s)	Treatment during Diversion	Practice Status at Release
2291	Terminated	Self	None	Alcohol, Marinol, Dexedrine	No	2 Yr, 2 mo.	No	No	Yes	Practicing
2415	Terminated	Bd	SOU	Oxycodine	Yes, Bi-Polar	6 Months	No	Yes	No	Not Practicing

RELAPSES (8)

The table below shows the case details for total participant relapses during the time period reported. There were **8** relapses during the time frame from July 2007 – September 2007, 1st Quarter.

Quarters		1 st	2 nd	3rd	4th	Totals
Type of Referral:	Board Action:	4				4
	Self- Referral:	4				4
Participant Impairment:	Chemical Dependency:	5				5
	Dual Disorder:	3				3
Length of Time in Program at Relapse:	0-1 year	4				4
	1-2 years	1				1
	2-3 years	1				1
	3-4 years	2				2
	4-5 years	0				0
	7-8 years	0				0
Total with Prior Relapses:		6				6
Method of Detection:	Random UDS:	7				7
	Collector Detection:	0				0
	DUI:	0				0
	Self Report:	0				0
	Treatment Center:	1				1
Practice Restrictions in Response to Relapse:	Stop Practice Initiated:	5				5
	Stop Practice Continued:	1				1
Clinical Response to Relapse:	Inpatient treatment:	5				5
	Increase group/urine tests:	0				0
	Retesting:	8				8
	Outpatient Treatment:	0				0
	DEC further review:	2				2
	Termination:	0				0
	Death:	0				0
Withdrew from Program:		0				0

KEY TO CASE REVIEW TERMS	
DEC	Diversion Evaluation Committee
GF	Group Facilitator
CM	Diversion Program Case Manager
CC	DEC Case Consultant
PM	Diversion Program Manager
UDS	Urine Drug Screen
PCP	Primary Care Physician
EtG Test	Ethyl Glucuronide Lab Screen (Special lab testing screen for Alcohol. Detects Alcohol in the urine for up to 80 hours prior to the date a specimen is collected.)

Physician Diversion Program – Relapses

1st Qtr FY 2007/2008 July – Sept. 2007

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Release	How Detected
2435	Not Practicing	No	Board	Investigation	Vicodin	No	8/23/07 & 8/30/07	Random UDS Test
Program Response to Relapse:								
Drugs) of Relapse			Time in Program at Release		Program Response to Relapse:			
Amphetamines			6 Months		Already not practicing; New sobriety date; Continue therapy, group meetings.			

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Release	How Detected
2472	Not Practicing	Yes	Self	Investigation	Alcohol, Cocaine	Yes	9/15/07	Random UDS Test
Program Response to Relapse:								
Drugs) of Relapse			Time in Program at Release		Program Response to Relapse:			
Benzos			3 Weeks		Already not practicing; New sobriety date; Continue therapy, group meetings. License suspended for 6 months due to Enforcement issues.			

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Release	How Detected
2454	Treatment	Yes	Self	Investigation	Alcohol	Yes	8/9/07 & 8/16/07	Random UDS Test
Program Response to Relapse:								
Drugs) of Relapse			Time in Program at Release		Program Response to Relapse:			
Cocaine			3 months		Already not practicing; Sent to Treatment.			

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Release	How Detected
2285	Treatment	No	Board	None	Alcohol	No	8/30/07	Random UDS Test
Program Response to Relapse:								
Drugs) of Relapse			Time in Program at Release		Program Response to Relapse:			
Cocaine			2 years 6 Months		New sobriety date; Pulled from work; Sent to Treatment.			

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Release	How Detected
2188	Treatment	Yes	Board	None	Alcohol, Cocaine	No	7/28/07	Random UDS Test
Program Response to Relapse:								
Drugs) of Relapse			Time in Program at Release		Program Response to Relapse:			
Cocaine			3 Years 1 Month		New sobriety date; Sent to Treatment.			

RELAPSES

Physician Diversion Program – Relapses

1st Qtr FY 2007/2008 July – Sept. 2007

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Relapse	How Detected
2102	Not Practicing	Yes	Self	Investigation	Meth.	No	8/17/07	Random UDS Test
Drugs) of Relapse		Time in Program at Relapse		Program Response to Relapse:				
Amphetamines		4 Years 8 Months		Pulled from work; Seen at 9/19/07 DEC; Continue program at L'Abri; No changes made to Agreement nor was sobriety date changed. Any further relapses will be grounds for termination.				

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Relapse	How Detected
2444	Treatment	Yes	Self	None	Alcohol	No	7/3/07, 8/1/07	Random UDS Test and Treatment Center
Drugs) of Relapse		Time in Program at Relapse		Program Response to Relapse:				
Alcohol		3 Months 3 Weeks		Already not practicing; New sobriety date; Treatment at Farley.				

Case	Current Status	Prior Relapses	Referral	Enforcement Activity	Primary Drug(s)	Mental Health Disorder	Date of Relapse	How Detected
2169	Part-Time	Yes	Board	Investigation	Alcohol	Yes	9/22/07	Random UDS Test
Drugs) of Relapse		Time in Program at Relapse		Program Response to Relapse:				
Alcohol		4 Years		Met with DEC on 8/8/07; Amends to agreement include: begin taking Antabuse; attend the Pacific Group meetings and obtain sponsor immediately; undergo a second opinion for medication management with an addictionologist; Allowed to return to work on 9/24/07 at no more than 20 hours per week; Sobriety date not changed.				

RELAPSES

**MEDICAL BOARD OF CALIFORNIA**

DIVERSION PROGRAM
 1430 Howe Avenue, Suite 14
 Sacramento, CA 95825-3236
 (916) 263-2600 FAX (916) 263-2607
www.mbc.ca.gov



Date: October 5, 2007

To: Members, Diversion Committee
 Division of Medical Quality
 Medical Board of California

From: Frank Valine *Frank H. Valine*
 Diversion Program Manager

Subject: Diversion Program Budget Report

Senate Bill 231 (Figueroa 2005) added Section 2343(b) to the Business and Professions Code. This section requires the Diversion Program Manager to... "account for all expenses and revenues of the Diversion Program and separately report this information to the board on a quarterly basis."

Attachment #1 details the Diversion Program (Program) final budget status for fiscal year (FY) 2006/2007.

Attachment #2 details the Program's budget for FY 2007/2008. The Program's budget for FY 2007/2008 is \$1,389,269. Expenditures from July 1, 2007 through August 31, 2007 are \$245,708. As requested by the Diversion Committee, this is 18% of the 2007/2008 FY Budget.

The Program's budget includes travel for Program staff to over 35 Diversion Evaluation Committee (DEC) meetings and four board meetings each year. The budget also includes travel and per diem expenses for DEC members.

Travel for staff and DEC members through September 2007 totaled: \$ 7,825.17

Per diem for DEC members from July 2007 through September 2007 totaled: \$ 5,800

Please let me know if you have any questions.

Attachment

MEDICAL BOARD
DIVERSION PROGRAM
BUDGET REPORT
JULY 1, 2006 - JUNE 30, 2007

	FY 06/07 BUDGET	EXPENDITURES/ ENCUMBRANCES
PERSONAL SERVICES		
Salaries & Wages	701,095	732,038
Staff Benefits	<u>292,521</u>	<u>237,754</u>
TOTAL PERSONAL SERVICES	993,616	969,792
 OPERATING EXPENSES & EQUIPMENT		
General Expense	40,921	20,719
Printing	10,000	5,327
Communications	21,276	14,150
Postage	5,255	2,015
Insurance	1,582	1,130
Travel In-State	72,055	79,276
Training	4,418	5,154
Facilities Operation	32,000	28,412
Consultant & Prof Services (Study)	300,000	300,000
Departmental Services	135,782	126,567
DP Maint/Supplies	2,500	85
Central Administrative Services	48,025	48,025
Major Equipment	56,750	62,831
Vehicle Operations	11,000	16,257
Minor Equipment	<u>12,000</u>	<u>3,049</u>
 TOTAL OPERATING EXPENSES & EQUIPMENT	 753,564	 712,997
 TOTAL BUDGET/EXPENDITURES	 1,747,180	 1,682,789

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MEDICAL BOARD OF CALIFORNIA
DIVERSION PROGRAM
BUDGET REPORT
JULY 1, 2007 - AUGUST 31, 2007


	FY 07/08 BUDGET	EXPEND/ ENCUMB YR-TO-DATE	PERCENT OF BUDGET EXP/ENCUMB	LAG TIME (MONTHS)
PERSONAL SERVICES				
Salaries & Wages	720,121	130,673	18.1	current
Staff Benefits	<u>308,770</u>	<u>64,843</u>	21.0	current
TOTAL PERSONAL SERVICES	1,028,891	195,516	19.0	
OPERATING EXPENSES & EQUIPMENT				
General Expense	25,000	9,805	39.2	1-2
Printing	10,000	5,174	51.7	1-2
Communications	22,822	0	0.0	1-2
Postage	5,255	253	4.8	1-2
Insurance	1,702	0	0.0	current
Travel In-State	75,000	5,222	7.0	1-2
Travel Out-of-State	1,100	0	0.0	current
Training	4,418	0	0.0	1-2
Facilities Operation	32,000	28,290	88.4	current
Departmental Services	106,672	0	0.0	current
Interagency Services	127	0	0.0	current
DP Maint/Supplies	500	0	0.0	1-2
Central Administrative Services	48,782	0	0.0	current
Major Equipment	16,000	0	0.0	current
Vehicle Operations	<u>11,000</u>	<u>1,448</u>	13.2	1-2
TOTAL OPERATING EXPENSES & EQUIPMENT	360,378	50,192	13.9	
TOTAL BUDGET/EXPENDITURES	1,389,269	245,708	17.7	

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9/26/2007

State of California

Department of Consumer Affairs
Medical Board of California**M e m o r a n d u m**To: Frank Valine
Diversion Program Administrator

Date: October 5, 2007

From: Letitia Robinson 
Collection System Manager

Subject: Collection System Status Report for July - September 2007

Attached are the charts reporting the collective test results for Urine Drug Screen (UDS) samples taken during the 1st Quarter, July - September of FY 2007/2008.

The majority of positive results continue to be a result of approved prescriptions for Naltrexone taken by some participants, or medications prescribed for surgery/medical condition. One participant still shows positive results on occasion as a result of sugar imbalances from his diabetes.

Eight participants with positive UDS samples were determined to have relapsed. Four participants were ordered into inpatient treatment, as indicated on the quarterly report.

During this reporting period the "Turn Around Time" as reported by Quest lab:

	<i>Collection to lab receipt</i>	<i>Lab receipt to results reported</i>	<i>Total Time</i>
Averages:	3.7 days	1.6 days	5.3 days

Attachments

UDS Test Results – 1st Quarter July – September 2007

POSITIVE TEST RESULTS				
Month 2007	Total # of Tests	Total Positive Results	Number of Positives	Comments
July	782	60	2 1 1 2 48 2 3 1	Two participants relapsed; sent to treatment. (# 2444 - Alcohol and # 2188 - Cocaine) Participant # 2169 relapsed (Alcohol). Initial test, new self-referred participant, quit program (Alcohol). Approved prescriptions other than Naltrexone. Approved prescriptions by case manager for Naltrexone. Positives resulting from alcohol-producing microorganisms associated with participant's diabetes. Positive for alcohol; EtG negative. Not considered a relapse.
August	810	58	4 3 4 41 4 1 1	Two participants relapsed; sent to treatment. (Cocaine: # 2285 and # 2454) Three participants relapsed. (# 2102 - Amp/Meth; # 2435 Amp; # 2472 - Alcohol) Approved prescriptions other than Naltrexone. Approved prescriptions by case manager for Naltrexone. Positives resulting from alcohol-producing microorganisms associated with participant's diabetes. Positive for alcohol; EtG negative. Positive for EtG; investigation pending.
September	782	45	1 2 2 38 1 1	Participant relapsed. (# 2472 - Morphine) New participant ; initial tests (9/21 and 9/22); currently in treatment. Approved prescriptions other than Naltrexone. Approved prescriptions by case manager for Naltrexone. Positive for alcohol; EtG pending. Positive for Fentanyl; split test pending.
TOTAL	2374	163	163	
NEGATIVE-DILUTE TEST RESULTS				
Month 2007	Total # of Tests	Total Negative- Dilute Results	Number of Negative-Dilute Results	Comments
July	782	6	6	Case Managers notified and retested.
August	810	3	3	Case Managers notified and retested.
September	782	6	6	Case Managers notified and retested.
TOTAL	2374	15	15	

UDS Test Results – 1st Quarter July – September 2007

INVALID/REJECTED TEST RESULTS				
Month 2007	Total # of Tests	Total Invalid or Rejected Results	Number of Invalid or Rejected Results	Comments
July	782	10	3	Immunoassay Interference; oxidizing adulterants were negative.
			1	GC/MS Interference.
			1	Abnormal pH; retested.
			1	The sample leaked in transport; retested.
			2	Tamper-Evident Seal Broken; retested. (New collector was terminated.)
			1	Collector name/Signature not on Chain of Custody form; retested.
			1	Insufficient volume: lab used entire vial prior to completing the test; retested.
August	810	7	1	Collector name/Signature not on Chain of Custody form; retested.
			1	Possible Oxidant Activity; alcohol positive; EtG negative; Glucose positive.
			1	Creatinine less than 2 mg/dl/ specific gravity acceptable.
			1	Abnormal pH; retested.
			2	The sample leaked in transport; retested.
			1	Insufficient volume: lab used entire vial prior to completing the test; retested.
September	782	12	2	Abnormal pH; retested.
			6	Insufficient volume: lab used entire vial prior to completing the test; retested.
			2	The sample leaked in transport; retested.
			1	Tamper-Evident Seal Broken; retested.
			1	Possible Oxidant Activity; retested.
TOTAL	2374	29	29	

Action taken on Positive (UDS Test) Results – 1st Quarter July 2007 – September 2007

JULY POSITIVE TEST RESULTS (other than Naltrexone)					
	<i>Collection Date</i>	<i>Lab Received Date</i>	<i>Lab Reported Date</i>	<i>Substance</i>	<i>Action Taken/Comments</i>
1	7/1/07	7/6/07	7/10/07	Alcohol	Relapse: Removed from work on 7/11; participant admitted drinking.
2	7/2/07	7/9/07	7/11/07	Alcohol	New, self-referral participant quit Program on 7/6.
3	7/3/07	7/9/07	7/12/07	Alcohol	Relapse: not working; ordered into treatment 7/12.
4	7/8/07	7/11/07	7/13/07	Alcohol	No action: EtG negative; glucose 4+; due to participant's diabetes.
5	7/9/07	7/11/07	7/13/07	Alcohol	EtG negative.
6	7/12/07	7/18/07	7/19/07	Alcohol	EtG negative.
7	7/18/07	7/23/07	7/25/07	Alcohol	EtG negative; glucose 3+; due to participant's diabetes.
8	7/19/07	7/23/07	7/26/07	Buprenorphine	@ RX; not working.
9	7/23/07	7/31/07	8/2/07	Propoxyphene	Stop work continued (from 7/11/07; previous relapse).
10	7/25/07	7/30/07	8/4/07	Buprenorphine	@ RX; not working.
11	7/26/07	7/30/07	8/1/07	Alcohol	EtG negative.
12	7/28/07	8/2/07	8/4/07	Cocaine	Relapse; reported to treatment on 8/9/07.

JULY NEGATIVE-DILUTE TEST RESULTS					
	<i>Collection Date</i>	<i>Lab Received Date</i>	<i>Lab Reported Date</i>	<i>Result</i>	<i>Action Taken/Comments</i>
1	7/4/07	7/9/07	7/10/07	Negative-Dilute	Participant on vacation through 7/17/07; retest scheduled.
2	7/9/07	7/12/07	7/14/07	Negative-Dilute	DEC 7/18; retest pending DEC outcome (retested 8/2 due to vacation)
3	7/13/07	7/19/07	7/22/07	Negative-Dilute	Contacted participant and retested.
4	7/23/07	7/27/07	7/31/07	Negative-Dilute	Retested.
5	7/24/07	7/30/07	7/31/07	Negative-Dilute	Retested.
6	7/24/07	7/27/07	7/31/07	Negative-Dilute	Retest scheduled.

Action taken on Positive (UDS Test) Results – 1st Quarter July – September 2007

AUGUST POSITIVE TEST RESULTS (other than Naltrexone)					
	<i>Collection Date</i>	<i>Lab Received Date</i>	<i>Lab Reported Date</i>	<i>Substance</i>	<i>Action Taken/Comments</i>
1	8/5/07	8/7/07	8/9/07	Meprobamate	@ RX; not working.
2	8/5/07	8/7/07	8/14/07	Buprenorphine	@ RX; not working.
3	8/7/07	8/10/07	8/13/07	Alcohol	No action: EtG negative; glucose 3+; due to participant's diabetes.
4	8/9/07	8/14/07	8/15/07	Cocaine	Relapse; discharged from Betty Ford for relapsing there; going to Pine Grove.
5	8/10/07	8/15/07	8/17/07	Alcohol	EtG negative.
6	8/10/07	8/15/07	8/17/07	Alcohol	No action: EtG negative; glucose 4+; due to participant's diabetes.
7	8/13/07	8/16/07	8/21/07	Buprenorphine	@ RX; not working.
8	8/16/07	8/23/07	8/27/07	Cocaine	Entered Pine Grove 8/22/07.
9	8/17/07	8/20/07	8/22/07	Amphetamine/Meth	Relapse; not working; just released from 3 month treatment program.
10	8/20/07	8/23/07	8/26/07	Midazolam/Meperidine	@ RX for surgery; return to work after negative test results received.
11	8/21/07	8/24/07	8/28/07	Alcohol	No action: EtG negative; glucose 3+; due to participant's diabetes.
12	8/22/07	8/31/07	9/5/07	Alcohol	Not working; retest pending.
13	8/23/07	8/27/07	8/29/07	Amphetamine	Relapse; not working.
14	8/23/07	8/30/07	9/4/07	Alcohol	Unemployed; Enforcement: license suspended for 6 months.
15	8/27/07	8/30/07	9/1/07	Alcohol	No action: EtG negative; glucose 3+; due to participant's diabetes.
16	8/30/07	9/4/07	9/6/07	Amphetamine	Continued relapse; not working.
17	8/30/07	9/4/07	9/6/07	Cocaine	Relapse; pulled from work.

AUGUST NEGATIVE-DILUTE TEST RESULTS					
	<i>Collection Date</i>	<i>Lab Received Date</i>	<i>Lab Reported Date</i>	<i>Result</i>	<i>Action Taken/Comments</i>
1	8/4/07	8/8/07	8/9/07	Negative-Dilute	Investigating prior recent dilutes; retest pending.
2	8/5/07	8/7/07	8/8/07	Negative-Dilute	No history of dilutes; retest scheduled.
3	8/8/07	8/13/07	8/14/07	Negative-Dilute	Investigating prior recent dilutes; retest pending.

Action taken on Positive (UDS Test) Results – 1st Quarter July – September 2007

SEPTEMBER POSITIVE TEST RESULTS (other than Naltrexone)					
	<i>Collection Date</i>	<i>Lab Received Date</i>	<i>Lab Reported Date</i>	<i>Substance</i>	<i>Action Taken/Comments</i>
1	9/14/07	9/19/07	9/21/07	Buprenorphine	@ RX; not working.
2	9/15/07	9/21/07	9/25/07	Morphine	Relapse; not working; license currently suspended.
3	9/20/07	9/24/07	9/26/07	Buprenorphine	@ RX; not working.
4	9/21/07	9/26/07	10/2/07	Alcohol/Clonazepam	New participant (9/20/07); initial UA test; and currently in treatment.
5	9/22/07	9/28/07	10/1/07	EtG(alcohol)/Clonazepam	New participant (9/20/07); initial UA test; and currently in treatment.
6	9/22/07	9/28/07	10/1/07	Alcohol	Pulled from work 10/1; EtG test ordered; participant denies drinking.
7	9/30/07	10/3/07	10/5/07	Fentanyl	Pulled from work 10/5; split test pending.

SEPTEMBER NEGATIVE-DILUTE TEST RESULTS					
	<i>Collection Date</i>	<i>Lab Received Date</i>	<i>Lab Reported Date</i>	<i>Result</i>	<i>Action Taken/Comments</i>
1	9/10/07	9/13/07	9/14/07	Negative-Dilute	10/24 DEC review; not working; retest scheduled.
2	9/15/07	9/19/07	9/20/07	Negative-Dilute	(#2 and #4); 10/31 DEC review; not working; retest scheduled.
3	9/17/07	9/20/07	9/21/07	Negative-Dilute	No history of prior dilutes; retest scheduled.
4	9/22/07	9/27/07	9/28/07	Negative-Dilute	(#2 and #4); 10/31 DEC review; not working; retest scheduled.
5	9/30/07	10/2/07	10/3/07	Negative-Dilute	Case manager investigating; retest scheduled.
6	9/30/07	10/2/07	10/3/07	Negative-Dilute	Case manager investigating; retest scheduled.

To: Diversion Committee

From: David Pating, M.D., Chair
Diversion Advisory Council

Subject: Recommendations on Transition of Participants

The DAC made the following recommendations at their September 24, 2007 meeting:

1. Self-referrals should continue to be accepted to the Diversion Program, however, after January 1, 2008, they should be given “full disclosure” about the program’s closure, informed of other possible options or referral to an advice line such as CMA’s referral hotline or the updated Medical Board referral list.
2. Referrals in lieu of discipline should continue to be accepted to the Diversion Program, however, after January 1, 2008, they should be given “full disclosure” about the program’s closure and informed of other possible options. The Diversion Program is advised to look into alternatives for new referrals in lieu of diversion and Mr. Heppler is directed to determine if it is legal to refer to alternative programs. Legal counsel is requested to prepare an opinion as to whether the Medical Board of California could order a participant into another diversion program.
3. All participants should be evaluated by the Diversion Evaluation Committee (DEC) prior to program closure for evaluation and recommendations. Self-referred participants and referrals in lieu of discipline with over three years sobriety should be allowed to leave the program as “successfully completed” following a DEC endorsement and Program Manager approval. Self-referred participants with less than three years sobriety should be evaluated by the DEC to provide the Program Manager and participant specific recommendations on how to move forward.
4. The Diversion Program is advised that referrals in lieu of discipline with less than three years sobriety should be referred to an alternate program and legal counsel should examine permissible options. In all cases, participants should be evaluated by the DEC for other individual recommendations.
5. The Diversion Advisory Council advises that probation monitoring and the biological fluid testing do not completely protect the public safety. The DAC believes that the best protection for public safety is continuance of a physician health program similar to the Diversion Program. With this caveat, probationary monitoring could be enhanced by requiring participants on probation to attend existing diversion groups or referral to a diversion alternative program.

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: November 2, 2007
 ATTENTION: Board Members
 DEPARTMENT: Medical Board of California (MBC)
 SUBJECT: Transition Plan for Diversion Program Participants
 STAFF CONTACT: Kimberly Kirchmeyer

REQUESTED ACTION:

Board members approve the transition plan and policy statements for the Diversion Program in the attached memo.

STAFF RECOMMENDATION:

Staff recommends that the Board members approve the attached plan in order to transition the participants from the Diversion Program which will sunset on June 30, 2008.

EXECUTIVE SUMMARY:

Since there was no legislation approved to extend the Diversion Program, on June 30, 2008 the legislation authorizing the Diversion Program will become inoperative. However, as of September 21, 2007 there were 203 individuals participating in the Diversion Program and therefore a transition plan for those individuals needed to be developed. In addition, this plan would also need to include what to tell those individuals who are contacting the Board until June 30, 2008 requesting entrance into the Diversion Program. After input from staff and the Diversion Advisory Council, a transition plan was put together as follows:

- Self referrals (75 participants)
 New participants – The Board will no longer accept self referrals into the Diversion Program
 Current participants – Those participants who have at least three years sobriety will be evaluated by the DEC and if in compliance will complete the Diversion Program (44 participants). Those participants without three years sobriety, and not deemed to be a danger to the public, will be released from the Program on June 30, 2008 but will be encouraged to seek another program to assist with sobriety (31 participants).
- In lieu of discipline or Statements of Understanding (94 participants)
 New participants – The Board will fully inform those individuals seeking entrance into the Diversion Program in lieu of discipline that they will not be able to successfully complete the Diversion Program and that on June 30, 2008 they will be referred to enforcement for further action.
 Current participants – Those participants who have at least three years sobriety will be evaluated by the DEC and if in compliance will complete the Diversion Program (60 participants). Those participants without three years sobriety will need to locate a program similar to the Diversion Program that will monitor him or her until he or she reaches three years sobriety (34 participants). This program will be required to report participant activity to the Chief of Enforcement. Failure to obtain a program will result in the matter being referred to the Enforcement Unit.
- Board ordered (27 participants)
 Upon approval of the plan, the Board will no longer have the Diversion Program as a condition of a probationary order. However, each new decision will contain a condition stating that the probationer must abstain from drugs/alcohol and must submit to biological fluid testing.

Current probationers – The Diversion Program condition will become null and void on July 1, 2008 and probationers will no longer be required to comply with this condition. However, they must comply with abstaining from drugs/alcohol and must continue to submit to biological fluid testing. One staff member will be responsible for setting up biological fluid testing for probationers on a random schedule.

- Out of State (7 participants)

Current participants – Board staff will continue to liaison with the other state's Diversion Programs to ensure the seven current participants successfully complete the other state's program.

FISCAL CONSIDERATIONS:

Pursuant to Business and Professions Code section 2435.2, the Board will need to reduce the initial and renewal license fees by the amount equal to the cost of operating the Diversion Program. However, the Board will need to maintain one full-time employee to perform the functions associated with the random biological fluid testing required for probationers. Since the funding will be taken from the Diversion Program, this position will be funded by the Board's Probation Unit.

PREVIOUS MBC AND/OR COMMITTEE ACTION:

At the July 2007 Board meeting, the Board members voted to allow the Diversion Program to sunset on June 30, 2008. Additionally, the Board requested a plan be developed to assist in the transition of the Diversion Program for the period between when the motion was made until June 30, 2008.



Date: November 1, 2007

To: Diversion Committee Members

From: Kimberly Kirchmeyer
Deputy Director

Subject: Diversion Transition Plan

Based upon input from Board Executive Staff and the Diversion Advisory Council, a transition plan has been developed for participants who are currently in the Diversion Program. The Diversion Committee will need to approve staff's proposed policies. If the policies are approved at this committee meeting, the Diversion Committee co-chairs will present this plan to all Board Members for approval.

As of September 21, 2007, there were 203 individuals in the Diversion Program (with seven of the participants participating in similar out-of-state programs). Of those, 75 were self-referrals, 94 were in Diversion in lieu of discipline, and 27 were ordered into Diversion as a result of a disciplinary order. In developing a transition plan, staff recognized that each of these categories had to be treated differently. By way of background, individuals are considered a self referral if they enter the Diversion Program completely voluntarily (no action pending and no future action is brought forward). Pursuant to statute, an individual may enter the Diversion Program in lieu of discipline if the Board determines that the only issues that have been brought to the attention of the Board's investigative unit are substance abuse issues or mental illness (the individual signs a Statement of Understanding with the Enforcement Unit indicating that the Board will suspend its disciplinary process while the individual is in the Diversion Program and will cease the process if the individual successfully completes the Program). Lastly, an individual may enter the Diversion Program as a condition of a disciplinary order, which will also contain a period of probation. (The Board also has 2 individuals in Diversion as part of a Post Accusation Diversion Agreement. This agreement occurred after an Accusation had been filed against a physician, but it states that if the subject successfully completes the Diversion Program, then the accusation will be withdrawn and no action will be taken against the physician. Staff has placed these individuals into the same category as in lieu of discipline participants.)

To determine how to transition these participants, the Board will need to address the participants based upon how they were accepted into the program.

SELF REFERRALS

PROPOSED POLICY: Effective upon approval, the Board will inform individuals requesting participation in the Diversion Program that the program will be eliminated on June 30, 2008 and

therefore the individual will need to seek participation in another monitoring/treatment program. Information regarding other programs may be available via the Board's Web site.

Rationale: The Board cannot maintain its current program with a limited number of staff. Additionally, with the Diversion Program ending on June 30, 2008, it would not be substantially beneficial for these individuals to enter the program. Hence, physicians seeking to voluntarily enter the Diversion Program will be denied participation due to insufficient resources.

PROPOSED POLICY: Beginning immediately following the Board meeting and ongoing to June 30, 2008, those individuals who are self referrals and have at least three years of sobriety will be referred to a Diversion Evaluation Committee (DEC) for evaluation. If the DEC recommends, and the Program Administrator agrees, that the individual has been in compliance, the individual will be deemed to have completed the Diversion Program and will receive a letter informing them of such. The letter also will recommend that if the participant believes he/she needs assistance to maintain his/her sobriety that he/she seek entrance into another monitoring program. [As of September 21, 2007 there were 44 participants in this category.]

Rationale: Pursuant to Business and Professions (B&P) Code section 2350, three years sobriety and adoption of a lifestyle which will maintain a state of sobriety is to be used to determine completion of the program. In addition, as the Diversion Program continues to lose staff, this mechanism will assist in keeping the caseload down for each monitor.

PROPOSED POLICY: On June 30, 2008 those individuals who are self referrals but have less than three years sobriety will be sent a letter stating the Diversion Program is inoperative and there is no longer a monitoring program. The letter will highly encourage participants to seek entrance into another monitoring or treatment program that will assist him or her in maintaining his or her sobriety. [As of September 21, 2007 there were 31 participants in this category.]

Rationale: The Diversion Program will no longer be in existence after June 30, 2008 and will no longer be able to monitor these individuals.

IN LIEU OF DISCIPLINE (STATEMENTS OF UNDERSTANDING)

PROPOSED POLICY: Effective upon approval, the Board will inform those individuals seeking admission to the Diversion Program in lieu of discipline that they will be unable to complete the three year term of sobriety necessary for successful completion of the Diversion Program and therefore any contract signed would be limited to a term ending June 30, 2008, the date on which the program becomes inoperative. At that time, the Board will refer the matter to the Attorney General's office for further action. The participant will be made fully aware of this fact and be given the choice of either entering the program with the knowledge that on June 30, 2008 he or she will be referred to enforcement for further action, or that he or she can proceed through the enforcement process.

Rationale: While the Board cannot deny participation in the Program in lieu of discipline as long as the Program is still legally in operation (pursuant to B&P Code section 2350), it also

should not encourage participants to enter a program that will only be operational until June 30, 2008. With the knowledge that the program will be inoperable, it would not show good faith to have a physician enter the program only for seven months.

PROPOSED POLICY: Upon approval and ongoing to June 30, 2008 those individuals who are in the Program in lieu of discipline and have had at least three years of sobriety will be referred to a Diversion Evaluation Committee (DEC) for evaluation. If the DEC recommends, and the Program Administrator agrees, that the individual has been in compliance, the individual will be deemed to have completed the Diversion Program and will receive a letter informing them of such. The letter also will recommend that if the participant believes he/she needs assistance to maintain his/her sobriety that he/she seek entrance into another monitoring program. [currently 60 participants in this category.]

Rationale: Pursuant to Business and Professions (B&P) Code section 2350, three years sobriety and adoption of a lifestyle which will maintain a state of sobriety is to be used to determine completion of the program. In addition, as the Diversion Program loses its staff, this will assist in keeping the caseload down for each monitor.

PROPOSED POLICY: On January 1, 2008, those individuals who are in the Program in lieu of discipline, but have less than three years sobriety, will be sent a letter stating the Diversion Program will be inoperative as of June 30, 2008. The letter will further state that the participant must locate another program that will monitor the physician's recovery in order for the Board to honor the "diversion" provision. This other program must meet the requirements/protocols of the Board's current Diversion Program. This other program must be willing to report to the Chief of Enforcement on a regular basis and provide information as to whether or not the individual is complying and be willing to immediately notify the Board of any positive drug screening. The letter will further inform the individual that there is a "zero-tolerance" policy on positive drug screenings. Failure to enroll into another program or abstain from drugs/alcohol may subject him or her to discipline by the Board. [currently 34 participants in this category.]

Rationale: Since these participants are in the Diversion Program in lieu of discipline, the Board cannot just dissolve the contract as it will do for the self-referrals. These individuals were brought to the attention of the Enforcement Unit and must fit the criteria in B&P Code section 2350 for completion in order to avoid further action by the Board.

BOARD ORDERED (DISCIPLINARY ORDER)

PROPOSED POLICY: Upon approval the Board will not approve a stipulation that requires participation in the Diversion Program as a condition of a disciplinary order or as a condition to issuing a probationary license. Additionally, the Board will send a letter to the Director of the Office of Administrative Hearings requesting that, since the Diversion Program will become inoperable, the Administrative Law Judges (ALJ) no longer order participation in the Diversion Program as a condition of probation either for disciplinary action or for initial probationary licenses.

In lieu of a Diversion Program condition, all stipulations/ALJ decisions must contain a condition stating that the probationer must abstain from all drugs/alcohol and must submit to biological fluid testing. New language would state:

“Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon request of the Board or its designee. Within 30 calendar days from the effective date of this decision respondent shall, at respondent's expense, contract with a laboratory or service - approved in advance by the Board or its designee - that will conduct random, unannounced, observed, urine testing a minimum of four times each month. The contract shall require results of the urine tests to be transmitted by the laboratory or service directly to Board or its designee within four hours of the results becoming available. Failure to maintain this laboratory or service during the period of probation is a violation of probation. A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and respondent. Failure to submit to or comply with the time frame for submitting to, or failure to complete the required biological fluid testing, is a violation of probation.”

The Board will follow up with a regulatory amendment to codify this change in the disciplinary guidelines.

Rationale: With the Diversion Program becoming inoperative on June 30, 2008 it would not be appropriate for the Board to order a condition of probation that could not be fulfilled.

PROPOSED POLICY: On July 1, 2008 the Diversion Program condition in a disciplinary order will become null and void and will no longer be considered a condition of probation. However, the individuals will be required to fully comply with the conditions in their order that state the probationer must abstain from drugs/alcohol and must submit to biological fluid testing. The individuals will be required to obtain a drug screening service that will provide testing of the participant. Any refusal to submit to testing, failure either to comply with the time frame for the test or to complete the test, or failure to abstain from drugs/alcohol will be grounds to file a petition to revoke probation.

The Board will need to create a staff position that will provide the lab chosen by the participant with random dates to perform drug screening. This staff person will use the previous Random Drug Generator Program (used by the Diversion Program) to identify random dates to test the participant. This staff person will also liaison with the collectors and laboratories to receive notification of whether the individual is complying with the testing and the outcomes of the test.

Each probationer would be notified that strict adherence to these conditions will be required and any positive drug screening may result in further discipline. Additionally, the probationer will be notified that he/she may seek any monitoring/treatment program he chooses in order to remain in compliance with his probationary order.

Rationale: Since there will no longer be a Diversion Program, this condition can no longer be enforced. Additionally, each probationer knows that a condition of his/her probation is the abstinence of drugs/alcohol.

OUT OF STATE

PROPOSED POLICY: The Board will have staff continue to liaison with the other state to ensure these individuals are in compliance with that state's program until completion. Additionally, these participants will be notified that failure to complete the other state's program as required will result in referral of this matter to the Board's Enforcement Unit.

Rationale: The Board does not currently monitor these individuals (except to be in communication with the other state) and this is a very small workload. Because the other state's programs are still operative, it would be appropriate for the Board to remain in contact with this state until the individual completes the other state's program and no further action would be necessary.

HOSPITAL REPORTING

PROPOSED POLICY: B&P Code section 821.5 imposes a requirement on peer review bodies to report specified information to the Board's Diversion Program when they initiate and complete or close an investigation into a physician's ability to practice medicine safely that is based on information indicating that the physician may be suffering from a disabling mental or physical condition that poses a threat to patient care. However, B&P Code section 2358 provides that the laws authorizing the Diversion Program will become inoperative on July 1, 2008 and will be repealed as of January 1, 2009 unless those dates are deleted or extended.

Because B&P Code section 821.5 was not repealed, peer review reporting requirements must remain. Therefore, as of July 1, 2008, peer review bodies must continue to provide the reports required by section 821.5 even if the Diversion Program ceases to exist. At that time, peer review bodies will be asked to report to the Board's Deputy Director instead of reporting to the Diversion Program. The Deputy Director will follow the steps provided in B&P Code section 821.5 for resolution of the matter.